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| 10/816,049      | 03/31/2004  | John W. Barrus       | 74451P161           | 9612             |

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EXAMINER

BOTTS, MICHAEL K

ART UNIT PAPER NUMBER

2176

DATE MAILED: 04/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/816,049

Applicant(s)

BARRUS, JOHN W.

Examiner

Michael K. Botts

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-77 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-77 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/4/05: 3/17/06

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This document is the first Office Action on the merits. This action is responsive to the following communications: The Non-Provisional Application, which was filed on March 31, 2004.
2. Claims 1-77 have been examined, with claims 1, 33, 34, and 61 being the independent claims.
3. A double patenting rejection is made.
4. Claims 1-77 are rejected.

### ***Information Disclosure Statement***

5. Signed and dated copies of applicant's IDS form 1449, which were filed on August 4, 2005 and March 17, 2006, are attached to this Office Action.

### ***The Specification***

6. Applicant is required to update the status (pending, allowed, etc.) of all parent priority applications in the first line of the specification. The status of all citations of U.S. filed applications in the specification should also be updated where appropriate.
7. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Double Patenting Rejection***

8. Claim 1 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 3 of copending Application number 10/665,097. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both claim a computer implemented method comprising receiving an image of a "document index," which is the same as an "overview of a collection;" identifying an action relating to a document; and, performing that action.

"a later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or **anticipated by**, the earlier claim. In re Longe, 759 F.2d at 896, 225 USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in our prior art patents); In re Berg, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness-type double patenting where a patent application claim to a genus is anticipated by a patent claim to a species within that genus)."

Eli Lilly and Company v. Barr Laboratories, Inc., Unites States Court of Appeals for the Federal Circuit, On Petition for Rehearing en banc (decided; May 30, 2001).

***Claims Rejections – 35 U.S.C. 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. **Claims 1, 8, 9, 11-32, 34, 40-66, 68-71, and 73-77** are rejected under 35

U.S.C. 102(b) as being clearly anticipated by Cooper, et al. (U.S. Patent 5,680,223, issued October 21, 1997) [hereinafter "Cooper"].

Regarding **independent claim 1**, Cooper teaches:

*A computer-implemented method comprising:*

*receiving an image of an overview of a collection;*

*identifying at least one action set forth in the image;*

*identifying at least one document; and*

*performing the at least one action on the at least one document.*

(It is noted that the term "collection," and the related term "sub-collection," are not specially defined in the application. From the specification and claims, the Examiner believes the terms to have been intended by the applicants to be used in their usual and ordinary meaning, such as: "a group of objects or works to be seen or kept together." "The American Heritage College dictionary," definition 2 of "collection," Houghton Mifflin Company, Fourth Edition, 2002. As used in the context of a computer or computer stored documents, the term "collection" is believed by the Examiner to be the same as a file. See, "Microsoft Computer Dictionary," Fifth Edition, Microsoft Press, 2002, definition of "file" as follows, in relevant part: "A complete named collection of

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information, such as a program, a set of data used by a program, or a user-created document." Accordingly, as used in this application, the limitation term "collection," including a "sub-collection," will be read consistent with the definition of a computer "file" for the remainder of this Office Action.

Cooper teaches the use of a coversheet ("image of an overview of a collection") to access documents that are stored on a computer, and processing the documents as indicated. See, Cooper, col. 1, line 8 through col. 4, line 59. See also, Cooper, col. 1, line 8 through col. 4, line 59, teaching manipulation of a collection.)

**Regarding dependent claim 8:**

See, Cooper, col. 1, line 8 through col.18, line 64, teaching a icons as pointers to identify a collection of documents.

**Regarding dependent claim 9:**

See, Cooper, col. 2, lines 38-53, teaching that it was well known in the art at the time of the invention to use a bar code.

**Regarding dependent claim 11:**

See, Cooper, col. 1, line 8 through col.18, line 64, teaching scanning to create the image.

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**Regarding dependent claim 12:**

The rejection of claim 2 is incorporated herein by reference. See also, Cooper, col. 6, lines 44-55, teaching printing and faxing.

**Regarding dependent claim 13:**

See, Cooper, col. 2, lines 39-53, teaching identifying a mark in a particular location in order to indicate an action.

**Regarding dependent claim 14:**

See, Cooper, col. 1, line 8 through col. 4, line 59. See also, Cooper, col. 1, line 8 through col. 4, line 59, teaching a collection.

**Regarding dependent claim 15:**

See, Cooper, col. 1, line 8 through col. 4, line 59. See also, Cooper, col. 1, line 8 through col. 4, line 59, teaching manipulation of a collection and the coversheet as an overview of that collection.

**Regarding dependent claim 16:**

See, Cooper, figure 13, teaching an icon. The Examiner takes official notice of the fact that "thumbnail" images were a well known and widely used icons representing software applications and functions and it would have been obvious to one of ordinary skill in the art at the time of the invention to use a thumbnail representation of a

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document on a document image index coversheet for purposes of giving visual cues to the user as to the content of the documents represented. See, Bloomberg (U.S. Patent 5,761,686, issued June 2, 1998), col. 3, lines 7-31, teaching that the use of thumbnail images as icons representing documents in applications and functions was well known in the art at the time of the invention.

**Regarding dependent claim 17:**

See, Cooper, col. 1, line 8 through col. 18, line 65, teaching machine readable identifiers specifying a collection or file, and retrieving the file.

**Regarding dependent claim 18:**

See, Cooper, figures 9-13, teaching a list.

**Regarding dependent claim 19:**

See, Cooper, figure 13, teaching an icon. The Examiner takes official notice of the fact that "thumbnail" images were a well known and widely used icons representing software applications and functions and it would have been obvious to one of ordinary skill in the art at the time of the invention to use a thumbnail representation of a document on a document image index coversheet for purposes of giving visual cues to the user as to the content of the documents represented. See, Bloomberg (U.S. Patent 5,761,686, issued June 2, 1998), col. 3, lines 7-31, teaching that the use of thumbnail images as icons representing documents in applications and functions was well known



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in the art at the time of the invention.

**Regarding dependent claim 20:**

See, Cooper, figure 13, teaching icons.

**Regarding dependent claim 21:**

See, Cooper, figures 9-13, teaching grouping of documents and actions relating to groups, noting that marking any of the several documents listed would create a group:

**Regarding dependent claim 22:**

See, Cooper, figures 9-13, teaching grouping of documents and actions relating to groups, noting that marking any of the several documents listed would create a sub-collection of the entire list.

**Regarding dependent claim 23:**

See, Cooper, figures 4 and 9-13, and col. 1, line 8 through col. 18, line 65, teaching transmitting a document to a determined destination.

**Regarding dependent claim 24:**

See, Cooper, figures 4 and 9-13, and col. 1, line 8 through col. 18, line 65, teaching transmitting a document to a user input determined destination.

**Regarding dependent claim 25:**

See, Cooper, figures 4 and 9-13, and col. 1, line 8 through col. 18, line 65, teaching transmitting a document to a determined destination.

**Regarding dependent claim 26:**

See, Cooper, figures, 4, 9, and 13, teaching an action indication area of the image, being form data region 68.

**Regarding dependent claim 27:**

See, Cooper, figures 4 and 9-13, and col. 1, line 8 through col. 18, line 65, specifically teaching transmitting a document to a determined destination by faxing or copying.

**Regarding dependent claim 28:**

See, Cooper, col. 1, line 8 through col. 18, line 65, specifically, col. 13, lines 44-57, teaching receipt of the index coversheet via another computer, which includes e-mail.

**Regarding dependent claim 29:**

See, Cooper, col. 1, line 8 through col. 18, line 65, specifically, col. 13, lines 44-57, teaching receipt of the index coversheet via fax.

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**Regarding dependent claim 30:**

See, Cooper, col. 1, line 8 through col. 18, line 65, specifically, col. 4, lines 23-38, teaching OCR.

**Regarding dependent claim 31:**

See, Cooper, figures 1-13, and col. 1, line 8 through col. 18, teaching identifying a storage location of an image and retrieving the document from that location.

**Regarding dependent claim 32:**

See, Cooper, figures 1-13, and col. 1, line 8 through col. 18, teaching identifying a storage location of an image and retrieving the document from that location.

**Regarding independent claim 34:**

*An article of manufacture comprising one or more recordable media having instructions stored thereon which, when executed by a computer, cause the computer to perform a method comprising:*

*receiving an image of an overview of a collection;*

*identifying at least one action set forth in the image;*

*identifying at least one document; and*

*performing the at least one action on the at least one document.*

(Claim 34 incorporates substantially similar subject matter as claimed in claim 1 and is rejected along the same rationale.)

**Regarding dependent claims 40-44:**

Claims 40-44 incorporate substantially similar subject matter as claimed in claims 11-15, respectively, and are rejected along the same rationale.

**Regarding dependent claims 45-50:**

Claims 45-50 incorporate substantially similar subject matter as claimed in claims 15-20, respectively, and are rejected along the same rationale.

**Regarding dependent claims 51-60:**

Claims 51-60 incorporate substantially similar subject matter as claimed in claims 23-32, respectively, and are rejected along the same rationale.

**Regarding independent claim 61, Cooper teaches:**

*A system for processing a stored document, comprising:  
a document index input device, to receive an image of a document index;  
a marked check box locator, coupled to the document input index device,  
to identify at least one action set forth in the image and to identify a location on  
the document index image of at least one indication area having a mark therein,  
the at least one indication area being associated with at least one document;*

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*a document identifier, coupled to the marked check box locator, to identify the at least one document based on the location of the at least one indication area having the mark therein; and*

*a document processor, coupled to the document identifier, to perform the at least one action on the at least one document.*

(See, Cooper, figures 1-13, col. 1, line 8 through col. 18, line 65, specifically figures 9, 10, and 12, teaching a document index input device to receive an image of a document index with a marked check box locator and a document identifier, and a document processor to perform an action on the document.)

**Regarding dependent claims 62-66:**

Claims 62-66 incorporate substantially similar subject matter as claimed in claims 6, 7, 11, 13, and 14, respectively, and are rejected along the same rationale.

**Regarding dependent claims 68-71:**

Claims 68-71 incorporate substantially similar subject matter as claimed in claims 15, 15, 16, and 17, respectively, and are rejected along the same rationale.

**Regarding dependent claims 73-77:**

Claims 73-77 incorporate substantially similar subject matter as claimed in claims 18, 16, 23, and 28, respectively, and are rejected along the same rationale.

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10. It is noted that any citations to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art.

See, MPEP 2123.

***Claims Rejection – 35 U.S.C. 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. **Claims 2-7, 10, 33, 35-39, 67, and 72** are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper, et al. (U.S. Patent 5,680,223, issued October 21, 1997) [hereinafter "Cooper"] as applied to claim 1 above, and further in view of Cotte, et al. (U.S. Patent 5,499,108, issued March 12, 1996) [hereinafter "Cotte"].

Regarding **dependent claim 2**:

Cooper teaches the limitations of claim 1, but does not expressly teach identifying a location on an image of placing a mark on an image and identifying a document based on the location of the indication area having a mark.

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Cotte teaches the image overview with a label, or sticker, location, a mark specifying an action, and the resultant action. See, Cotte, col. 2, line 29 through col. 3, line 54, generally. See also, Cotte, figures 26-30, and col. 10, line 19 through col. 14, line 48, teaching receiving an image of a document locating an image of a sticker specifying an action, making a mark on the sticker and identifying the document based on the location of the sticker on the documents, and performing the specified action.

Cooper and Cotte are combinable because they are both in the same art of document access and manipulation through the use of labels.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have combined Cooper and Cotte. The suggestion or motivation for doing so is found in both references. Cooper identifies a "label" which would have been understood by one of ordinary skill in the art at the time of the invention to include a "sticker." See, Cooper, col. 3, line 23 through col. 4, line 59. In addition, Cotte teaches the use of stickers in a manner consistent with the printing of labels as taught in Cooper, and Cotte merely adds some additional functionality to the label/sticker invention. See, Cotte, col. 10, line 19 through col. 14, line 48. Therefore, it would have been obvious to combine Cooper with Cotte to obtain the invention as specified in claim 1.)

**Regarding dependent claim 3:**

The rejection of claim 2 is incorporated herein by reference. See also, Cotte, figures 38-30, and col. 10, line 19 through col. 14, line 48, teaching check boxes associated with a plurality of graphics in the image associated with documents.

**Regarding dependent claim 4:**

The rejection of claim 2 is incorporated herein by reference. See also, Cooper, figures 12 and 13, teaching a plurality of representations of documents. See also, Cotte, figures 38-30, and col. 10, line 19 through col. 14, line 48, teaching check boxes associated with a plurality of graphics in the image associated with documents.

**Regarding dependent claim 5:**

The rejection of claim 2 is incorporated herein by reference. See also, Cooper, col. 10, lines 46-60, teaching an x-y coordinate to locate position of a label.

**Regarding dependent claim 6:**

The rejection of claim 2 is incorporated herein by reference. See also, Cotte, figures 38-30, and col. 10, line 19 through col. 14, line 48, teaching check boxes associated with a plurality of graphics in the image associated with documents.

**Regarding dependent claim 7:**

The rejection of claim 2 is incorporated herein by reference. See also, Cotte, figures 26-30.

**Regarding Independent claim 33:**

*A computer-implemented method comprising:*

*receiving an image of an overview of a collection and a machine readable*



*pointer identifying the collection;*

*locating, on the document index image, at least two marked check boxes;*

*identifying a document for at least one of the marked check boxes based  
on location of the at least one of marked check boxes on the document index*

*page;*

*identifying an action from the document index page; and*

*performing the action on the documents identified for each of the marked  
check boxes.*

(Claim 33 incorporates substantially similar subject matter as claimed in claim 2 and is rejected along the same rationale.)

**Regarding dependent claims 35-38:**

Claims 35-38 incorporate substantially similar subject matter as claimed in claims 2, 3, 6, and 7, respectively, and are rejected along the same rationale.

**Regarding dependent claim 67:**

Claim 67 incorporates substantially similar subject matter as claimed in claim 3, and is rejected along the same rationale.

**Regarding dependent claim 72:**

Claim 72 incorporates substantially similar subject matter as claimed in claims 5, and is rejected along the same rationale.

12. **Claims 10 and 39** are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper, et al. (U.S. Patent 5,680,223, issued October 21, 1997) [hereinafter "Cooper"] as applied to claim 1 above, and further in view of Petteruti, et al. (U.S. Patent 6,409, 401, filed March 26, 2001) [hereinafter "Petteruti"].

**Regarding dependent claim 10:**

Cooper teaches the limitations of claim 1, but does not expressly teach the use of an RFID tag identifying the collection.

Petteruti teaches a Radio Frequency Identification, RFID, tag to be attached as a label to be attached to media printed by a printer, with such RFID tag identifying the object. See, Petteruti, col. 1, lines 47-55.

Cooper and Petteruti are combinable in that they involve the same art of printing labels to identify information.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have combined Cooper and Petteruti to create a label with an RFID tag attached to a document index for the obvious and advantageous purpose of rapid and easy identification of a document through a label or tag. The suggestion or motivation for doing so is found in Cooper, which allows for variance from the stated embodiments being consistent with the invention, and from the fact that an RFID label is merely a different type of label which was known in the art at the time of the invention by one of ordinary skill. Therefore, it would have been obvious to combine the coversheet and

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label invention of Cooper with the printing of RFID tag labels in Petteruti to result in the invention specified in claim 10.

**Regarding dependent claim 39:**

Claim 39 incorporates substantially similar subject matter as claimed in claim 10 and is rejected along the same rationale.

13. It is noted that any citations to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. See, MPEP 2123.

***Conclusion***

14. The following prior art is made of record that is considered pertinent to applicants' disclosure:

Petteruti, et al. (U.S. Patent 6,409, 401), teaching RFID tags as document labels.

Benson (U.S. Patent 6,301,660 B1), teaching keying documents for secure access in a network system.

Chen, et al. (U.S. Patent 6,009,442), teaching document collection images and manipulation.

Dozier, et al. (U.S. Patent 5,870,552), teaching publishing documents over

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networks.

Bernobich, et al. (U.S. Patent 5,812,664), teaching key distribution systems.

Bloomberg (U.S. Patent 5,765,176), teaching bar code access to documents through a coversheet.

Bloomberg (U.S. Patent 5,761,686), teaching iconic images of documents as coversheets.

Herz, et al. (U.S. Patent 5,754,939), teaching customized electronic identification of documents.

Lopresti, et al. (U.S. Patent 5,754,308), teaching scanning and access to documents using a copier.

Knox (U.S. Patent 5,734,752), teaching watermarks.

Hamilton, (U.S. Patent 5,715,381), teaching a method of creating and managing packages, including multiple documents, in a printing system.

Bergen (U.S. Patent 5,710,874), teaching security in a coversheet system and a separator sheet.

Cooper, et al. (U.S. Patent 5,680,223), teaching storage, manipulation, and retrieval of scanned files using file labels.

Anderson, et al. (U.S. Patent 5,581,682), teaching annotation and security of electronic documents.

Cotte, et al. (U.S. Patent 5,499,108), teaching document input into a computer system using a scanner or fax.

Klotz, (U.S. Patent 5,459,307), teaching machine readable paper flag for

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electronic data storage.

Cooper, et al. (U.S. Patent 5,448,375), teaching the basics of storage and manipulation of files with coversheets with paper and screen displays.

Lech, et al. (U.S. Patent 5,369,508), teaching scanner input of hard copy documents to a computer.

Wang, et al. (U.S. Patent 5,299,123), security in accessing an electronic document on a network.

MacPhail (U.S. Patent 5,280,609), teaching documents in folders and coversheets.

Johnson, et al. (U.S. Patent 5,267,303), teaching creation and use of coversheets, versioning, and security.

Wang, (U.S. Patent 5,255,389), document replacement and editing on a network with a copier, security, and use of a pointer.

Hube (U.S. Patent 5,243,381), teaching use of a bar code in a coversheet application.

Wright (U.S. Patent 5,225,900), teaching scanning, editing, and security on a coversheet.

Takayangi (U.S. Patent 5,168,371), teaching an image job control coversheet.

Saito (U.S. Patent 5,161,037), teaching a job control coversheet.

Levine, et al. (U.S. Patent 5,060,135), teaching file collections.

Ojha (U.S. Patent 4,987,447), teaching control sheet generation for copiers and printers.

Individuals associated with the filing or prosecution of a patent application are reminded of their obligations pursuant to 37 CFR 1.56. See generally, MPEP 2001 and subsections.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael K. Botts whose telephone number is 571-272-5533. The examiner can normally be reached on Monday through Friday 8:00-4:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached on 571-272-4136. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MKB/mkb



**DOUG HUTTON  
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